

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

KENNETH TIPLER,

Plaintiff,

v.

Case No. 3:18-cv-01753-JPG-DGW

BEN CANEVARI and VIVINT HOME  
SECURITY,

Defendants.

**MEMORANDUM AND ORDER**

**J. PHIL GILBERT, DISTRICT JUDGE**

Plaintiff Kenneth Tipler says that defendant Vivint Home Security and its employee, Ben Canevari, committed fraud, deceptive business practices, and both intentional and negligent inflictions of emotional distress against Tipler when the defendants lied about merging with another home security company, and then continued to bill Tipler and his wife even after they cancelled the account. This case began in state court, but the defendants removed it here pursuant to 28 U.S.C. § 1441(b) on a theory of diversity jurisdiction. (ECF No. 1.) The defendants then filed a motion to dismiss for failure to state a claim pursuant to Federal Rule of Civil Procedure 12(b)(6). (ECF No. 9.)

Tipler's response to that motion was due by November 1, 2018. SDIL-LR 7.1(c)(1). But he never filed one. That failure to respond constitutes a waiver of his claims. *Alioto v. Town of Lisbon*, 651 F.3d 715, 720–21 (7th Cir. 2011); *Bonte v. U.S. Bank, N.A.*, 624 F.3d 461, 466 (7th Cir. 2010); *Wojtas v. Capital Guardian Tr. Co.*, 477 F.3d 924, 926 (7th Cir. 2007); SDIL-LR 7.1(g). The Court accordingly will **GRANT** the defendants' motion to dismiss (ECF No. 9), **DISMISS** this case **WITH PREJUDICE**, and **DIRECT** the Clerk of Court to enter judgment accordingly.

**IT IS SO ORDERED.**

**DATED: NOVEMBER 8, 2018**

**s/ J. Phil Gilbert**  
**J. PHIL GILBERT**  
**DISTRICT JUDGE**